The Hon'ble Sri Justice Nooty Ramamohana Rao

WPMP.No.31625 of 2006
and
Writ Petition No.11493 of 1997

Dated 27th November 2006

WPMP.No.31625 of 2006

Between:

1.Sri U.Sachin Kumar and 2 others.
.. Petitioners

And

1.Kusumalatha and 3 others.
.. Respondents

WP.No.11493 of 1997

Between:

Smt.Kusumalatha
.. Petitioner

And

1.Commissioner of Land Reforms
& Urban Land Ceilings A.P.,
Hyderabad and 2 others.
.. Respondents

The Hon'ble Sri Justice Nooty Ramamohana Rao

WPMP.No.31625 of 2006
and
Writ Petition No.11493 of 1997

Common Order:

This Writ Petition has been instituted seeking a writ of Mandamus declaring the proceedings dated 12-2-1997 passed by the 1st respondent-Commissioner of Land Reforms & Urban Land Ceilings, Andhra Pradesh, Hyderabad, confirming the orders passed by the 2nd respondent on 28-12-1996, as illegal.

It is the case of the writ petitioner that himself

and the third respondent together purchased vacant land of an extent of 991 square meters from one Ch.Papa Rao, under registered document No.6105/1982 on 19th August, 1982, and that they were never put on notice by the second respondent-Special Officer & Competent Authority under the Urban Land Ceiling Act before passing the impugned order, and consequently, there was no occasion for them to contest the matter and bring forth the eventual aspects to the notice of the second respondent, so as to appropriately modify the computation or declaration of excess vacant land held by Ch.Papa Rao, the predecessor in interest of the writ petitioner.

During the pendency of the Writ Petition, the miscellaneous petition being WPMP.No.31625 of 2006 has been moved by the learned Counsel for the writ petitioner seeking impleadment of the proposed party petitioners as writ petitioners 2 to 4, on the ground that the property in question was purchased initially by the writ petitioner and the third

respondent as partners of M/s.Kumar Brothers and Co., and subsequently, there was a change in the constitution of the said partnership firm. Hence, he seeks impleadment of the proposed parties 1 to 3 as petitioners 2 to 4 in the Writ Petition.

Heard the learned Counsel for the parties and perused the entire material available on record.

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WPMP.No.31625 of 2006 is ordered, in view of the subsequent change in the constitution of the partnership firm.

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On 23rd December, 1996, the second respondent-Special Officer and Competent Authority had passed an order, reading of which would indicate that Sri Ch.Papa Rao had filed the required declaration under Section 6 of the Urban Land (Ceilings & Regulation) Act, 1976, (for short 'the Act') in Form-I, and the enquiry therein had lead to

the conclusion that the declarant was holding excess land of 2967.94 square meters than what is being permitted to be held by him. Since the declarant had sold the subject land to the writ petitioners after the Urban Land (Ceilings & Regulation) Act, 1976 came into force, without obtaining prior permission from the competent authority as contemplated under Section 26 of the Act, the transfer of land to an extent of 991.20 square meters situated at Kachiguda in Hyderabad, which was transacted through the registered sale deed bearing No.6105 of 1982 dated 19th August, 1982, was declared as null and void. Undoubtedly, the order passed by the second respondent on 23-12-1996 affects the writ petitioners with drastic consequences inasmuch as a property of a large extent of 991 square meters purchased by them as on 19th August, 1982 has been declared as null and void nearly 14 years subsequent thereto and without affording any opportunity to the writ petitioners. When the first petitioner carried the matter in appeal under Section 33 of the Act before

the first respondent-Commissioner, the first respondent has understood that the first petitioner can participate in the enquiry that is contemplated under sub-section 2 of Section 10 of the Act, and raise the objections, if any, before the second respondent-Special Officer, and instead of availing such an opportunity, the first petitioner had erroneously preferred the appeal against an order, which is yet to be passed under sub-section 2 of Section 10 of the Act. It will be convenient, at this stage, to extract sub-sections 1 to 3 of Section 10 of the Urban Land [Ceiling & Regulation} Act, 1976.

> **The Urban Land (Ceiling & Regulation) Act, 1976.**
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> 10. Acquisition of vacant land in excess of ceiling limit:-
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> (1) As soon as may be after the service of the statement under Section 9 on the person concerned, the competent authority shall cause a notification giving the particulars of the vacant land held by such person in excess of the ceiling limit and stating that---
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> (i) such vacant land is to be acquired by the concerned State Government; and

(ii) the claims of all persons interested in such vacant land may be made by them personally or by their agents giving particulars of the nature of their interest in such land;

(iii) to be published for the information of the general public in the Official Gazette of the State concerned and in such other manner as may be prescribed.

(2) After considering the claims of the person interested in the vacant land, made to the competent authority in pursuance of the notification published under sub-section (1) the competent authority shall determine the nature and extent of such claims and pass such orders as it deems fit.

(3) At any time after the publication of the notification under sub-section (1), the competent authority may, by notification published in the Official Gazette of the State concerned, declare that the excess vacant land referred to in the notification published under sub-section (1), shall, with effect from such date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon the publication of such, Government is free from all encumbrances with effect from the date

so specified.'

It is clear that as soon as the determination of the land held by the declarant has attained finality by way of publication of the final statement, a notice was required to be caused for the benefit of the general public so as to receive claims of all the persons interested in such vacant land, and when such claims have been received, sub-section 2 of Section 10 of the Act has contemplated a determination of the nature and extent of the claims so made. Whenever the determination of the nature and extent of the claims is contemplated by a statute, it implies and presupposes adherence to the principles of natural justice. It is no doubt true that when once a notification under
sub-section 1 of Section 10 of the Act has been published in the official gazette, it is presumed to be a notice for the entire general public at large. But however, since the second respondent-Special Officer was dealing with a specific case wherein the parties, who are likely to be affected, are known to him from the very recitals of document No.6105/82,

dated

19-08-1982, it is only expected that he should have provided an opportunity to the writ petitioners, who will be adversely affected, if the document of sale bearing No.6105/82, dated

19-08-1982, is declared as null and void. Be that as it may, the impugned order passed by the second respondent-Special Officer itself has been construed by the first respondent-appellate authority as a mere notice inviting claims over which an enquiry is contemplated under sub-section 2 of Section 10 of the Act, I consider that ends of justice would be met by construing the present order dated 23-12-1996 as a provisional conclusion of the second respondent under the Urban Land Ceiling Act, over which, the writ petitioners and any other persons interested may submit their objections, and the second respondent may deal with those objections/claims in accordance with law and decide the same as is required under sub-section 2 of Section 10 of the Act. Therefore, the writ petitioners have been accorded time up to 31st

December, 2006 to file their detailed objections showing the cause as to why the transaction of sale in their favour covered by document No.6105/82, dated 19-08-1982, is not liable to be declared as null and void. It is needless to observe that the second respondent-special officer will deal with the same in accordance with law and decide the issue by putting on notice the third respondent as well as the original declarant-Sri Ch.Papa Rao. The decision may be taken on or before 31st March, 2007 in this regard.

With this observation, the Writ Petition stands disposed of. Interim order passed by this Court vide WPMP.No.13848 of 1997 dated 10-06-1997 will, however, hold the field till the determination under sub-section 2 of Section 10 of the Act is finalized.

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(Nooty Ramamohana Rao, J)

27th November, 2006.
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